

### REMARKS

In the outstanding official action, claims 6 and 7 were objected to because of a lack of antecedent basis relating to the term "liquid crystal". In response, claims 6 and 7 are herewith amended to depend from claim 2, wherein a proper basis is provided for the liquid crystal material. In this regard, it is noted that it is suggested in the Action that dependence should be changed to depend from claim 1, but it is noted that the objection to the claims refers to a lack of antecedent basis in claim 1 so it is assumed for the sake of advancing prosecution that what was intended was a suggestion to change the dependence of these claims to claim 2, which has been done.

On the merits, claims 2-7 were deemed to be allowable if placed in independent form, while independent claim 1, and claims 8-12, were rejected under 35 USC 102(b) as being anticipated by Dil et al, for the reasons of record. In response, it is respectfully submitted that independent claim 1, and the remaining claims depending therefrom, are clearly patentably distinguishable over the cited reference for the reasons detailed below.

More particularly, it is suggested, with respect to claim 1, that Figs. 9 and 10 of the reference show an optical record carrier having all of the structural elements as recited in claim 1. In response, Figs. 9 and 10, and the associated description thereof in the reference, have been carefully reviewed and it is respectfully

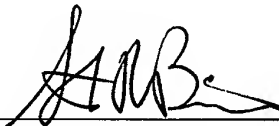
submitted that the structures shown and described in the reference do not in fact teach all of the limitations of claim 1 as would be required to support an anticipation rejection. Thus, for example, it is suggested in the Action that at least one of the types of grating strips comprises a birefringent material. On the contrary, however, the description in the reference associated with Fig. 10 does not appear to anywhere teach or suggest that one of the grating strips comprises a birefringent material. In this regard, it is noted that in another portion of the specification, a read apparatus for an optical record carrier as shown in Fig. 11 is described, and in this description a plate 33, which is completely separate and apart from the optical record carrier is described as comprising a birefringent material. Thus, since the reference clearly describes another component of a system as comprising a birefringent material when such a material is present, it is clear that no inference may be made regarding the optical record carrier having grating strips comprising a birefringent material absent an express teaching to this effect.

Furthermore, a similar argument is presented with respect to the lack of any teaching in the reference regarding the refractive indices of the grating strips and intermediate strips being different for radiation polarized in a direction parallel to the grating plane and perpendicular to the grating strips. In this regard, it is noted that the portion of the rejection relating to

this issue at page 3, line 15 of the Action, appears to be incomplete in that the latter part of this line contains a parenthetical reference to certain figures but ends with the word "and" with no closing of the parenthesis, thus suggesting that a portion of the intended text has been omitted. Should this in fact be the case, and if the instant amendment does not place this application in condition for allowance, it is respectfully requested that the next Action be non-final to avoid prejudice.

In view of the foregoing, it is respectfully submitted that amended claims 6 and 7 are now in proper form, and that independent claim 1 and claims 8-12, as well as previously allowable claims 2-7, are now in condition for allowance. Favorable consideration is earnestly solicited.

Respectfully submitted,

By 

Steven R. Biren, Reg. 26,531  
Attorney  
(914) 333-9630